



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Memorial Compounding Pharmacy

Respondent Name

New Hampshire Insurance Company

MFDR Tracking Number

M4-17-3176-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 28, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Memorial Compounding has not received any correspondence with explanation of review or benefits."

Amount in Dispute: \$298.29

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Carrier initially disputed the dates of service in question. After review, the Carrier will reimburse the Provider for the prescriptions Acetaminophene/Codeine and Gabapentin per the MAR value. The Carrier is maintaining the dispute regarding the payment for the prescription Methocarbamol per the attached peer review..."

Response Submitted by: AIG

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 18, 2017	Acetaminophen/Codeine #3 Tablets	\$74.56	\$25.33
January 18, 2017	Methocarbamol 500 mg Tablets	\$86.45	\$40.19
January 18, 2017	Gabapentin 300 mg Capsules	\$137.28	\$103.72

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
3. The documentation submitted to the division does not include explanations of benefits.

Issues

1. Did New Hampshire Insurance Company take final action to pay, reduce, or deny the disputed compound?
2. Is Memorial entitled to additional reimbursement for the compound in question?

Findings

1. Memorial is seeking reimbursement of \$298.29 for pharmaceutical services dispensed on January 18, 2017.

Memorial asserted that, "The bills were processed on DWC066 submitted certified mail. I have reviewed the AIG portal and the provider bill inquiry indicated that claim was received and being audited."

The division finds that the submitted documentation includes AIG Provider Bill Inquiry indicating receipt of the bill on or before March 13, 2017. According to Texas Labor Code Sec. 408.027(b), New Hampshire Insurance Company was required to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Memorial. Corresponding 28 Texas Administrative Code §133.240(a) required New Hampshire Insurance Company to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day.

28 Texas Administrative Code §133.2(6) defines final action as follows:

Final action on a medical bill—

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
- (B) denying a charge on the medical bill.

New Hampshire Insurance Company was not relieved of its requirement to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Memorial, in accordance with Texas Labor Code Sec. 408.027(b). When the insurance carrier receives a medical bill, it is obligated to take the following actions pursuant to 28 Texas Administrative Code §133.240:

- (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill...
- (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
 - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

AIG argued in its position statement on behalf of New Hampshire Insurance Company, that "The Carrier is maintaining the dispute regarding the payment for the prescription Methocarbamol per the attached peer review..."

New Hampshire Insurance Company's failure to timely issue an explanation of benefits to Memorial creates a waiver of defenses that AIG raised in its response to medical fee dispute resolution under 28 Texas Administrative Code §133.307(d)(2)(F):

The [carrier's] response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...

Absent any evidence that New Hampshire Insurance Company raised any defenses consistent with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division concludes that New Hampshire Insurance Company failed to take final action to pay, reduce, or deny the pharmaceutical services in question. The pharmaceutical services will be reviewed in accordance with applicable fee guidelines.

2. 28 Texas Administrative Code §134.503 applies to the pharmaceutical services in dispute and states, in pertinent part:

- (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
- (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

AIG asserted that “the Carrier will reimburse the Provider for the prescriptions Acetaminophene/Codeine and Gabapentin per the MAR value.” No explanation of benefits was found to support that reimbursement was issued as asserted. Therefore, each drug is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula §134.503(c)(1)	Billed Amt §134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Acetaminophen/ Codeine #3	00093015010 Generic	\$0.28435	60 tablets	$(\$0.28435 \times 60 \times 1.25) + \$4.00 = \$25.33$	\$74.56	\$25.33
Methocarbamol 500 mg	31722053305 Generic	\$0.4825	60 tablets	$(\$0.4825 \times 60 \times 1.25) + \$4.00 = \$40.19$	\$86.45	\$40.19
Gabapentin 300 mg	45963055650 Generic	\$1.3296	60 capsules	$(\$1.3296 \times 60 \times 1.25) + \$4.00 = \$103.72$	\$137.28	\$103.72
					Total	\$169.24

The total reimbursement is therefore \$169.24. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$169.24.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$169.24, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

<hr/> Signature	<hr/> Laurie Garnes Medical Fee Dispute Resolution Officer	<hr/> September 1, 2017 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.